

AMENDMENT NO. _____ Calendar No. _____

Purpose: To impose a temporary windfall profits tax on crude oil and to use the proceeds of the tax collected to fund programs under the Low-Income Energy Assistance Act of 1981 through a trust fund.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 2020

To provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. REED

Viz:

1 At the end of title IV add the following:

2 **SEC. 410. TEMPORARY WINDFALL PROFITS TAX.**

3 (a) IN GENERAL.—Subtitle E of the Internal Rev-
4 enue Code of 1986 (relating to alcohol, tobacco, and cer-
5 tain other excise taxes) is amended by adding at the end
6 thereof the following new chapter:

7 **“CHAPTER 56—TEMPORARY WINDFALL**
8 **PROFITS ON CRUDE OIL**

“Sec. 5896. Imposition of tax.

“Sec. 5897. Windfall profit; etc.

“Sec. 5898. Special rules and definitions.

1 **“SEC. 5896. IMPOSITION OF TAX.**

2 “(a) IN GENERAL.—In addition to any other tax im-
3 posed under this title, there is hereby imposed on any ap-
4 plicable taxpayer an excise tax in an amount equal to the
5 applicable percentage of the windfall profit of such tax-
6 payer for any taxable year beginning in 2005.

7 “(b) APPLICABLE TAXPAYER.—For purposes of this
8 chapter, the term ‘applicable taxpayer’ means, with re-
9 spect to operations in the United States—

10 “(1) any integrated oil company (as defined in
11 section 291(b)(4)) which has an average daily world-
12 wide production of crude oil of at least 500,000 bar-
13 rels for the taxable year, and

14 “(2) any other producer or refiner of crude oil
15 with gross receipts from the sale of such crude oil
16 or refined oil products for the taxable year exceeding
17 \$100,000,000.

18 “(c) APPLICABLE PERCENTAGE.—For purposes of
19 subsection (a), the applicable percentage shall be deter-
20 mined by the Secretary such that the resulting increase
21 in revenues in the Treasury equals \$2,920,000,000.

22 **“SEC. 5897. WINDFALL PROFIT; ETC.**

23 “(a) GENERAL RULE.—For purposes of this chapter,
24 the term ‘windfall profit’ means the excess of the adjusted

1 taxable income of the applicable taxpayer for the taxable
2 year over the reasonably inflated average profit for such
3 taxable year.

4 “(b) ADJUSTED TAXABLE INCOME.—For purposes of
5 this chapter, with respect to any applicable taxpayer, the
6 adjusted taxable income for any taxable year is equal to
7 the taxable income for such taxable year (within the mean-
8 ing of section 63 and determined without regard to this
9 subsection)—

10 “(1) increased by any interest expense deduc-
11 tion, charitable contribution deduction, and any net
12 operating loss deduction carried forward from any
13 prior taxable year, and

14 “(2) reduced by any interest income, dividend
15 income, and net operating losses to the extent such
16 losses exceed taxable income for the taxable year.

17 In the case of any applicable taxpayer which is a foreign
18 corporation, the adjusted taxable income shall be deter-
19 mined with respect to such income which is effectively con-
20 nected with the conduct of a trade or business in the
21 United States.

22 “(c) REASONABLY INFLATED AVERAGE PROFIT.—
23 For purposes of this chapter, with respect to any applica-
24 ble taxpayer, the reasonably inflated average profit for any
25 taxable year is an amount equal to the average of the ad-

1 justed taxable income of such taxpayer for taxable years
2 beginning during the 2000-2004 taxable year period (de-
3 termined without regard to the taxable year with the high-
4 est adjusted taxable income in such period) plus 10 per-
5 cent of such average.

6 **“SEC. 5898. SPECIAL RULES AND DEFINITIONS .**

7 “(a) WITHHOLDING AND DEPOSIT OF TAX.—The
8 Secretary shall provide such rules as are necessary for the
9 withholding and deposit of the tax imposed under section
10 5896.

11 “(b) RECORDS AND INFORMATION.—Each taxpayer
12 liable for tax under section 5896 shall keep such records,
13 make such returns, and furnish such information as the
14 Secretary may by regulations prescribe.

15 “(c) RETURN OF WINDFALL PROFIT TAX.—The Sec-
16 retary shall provide for the filing and the time of such
17 filing of the return of the tax imposed under section 5896.

18 “(d) CRUDE OIL.—The term ‘crude oil’ includes
19 crude oil condensates and natural gasoline.

20 “(e) BUSINESSES UNDER COMMON CONTROL.—For
21 purposes of this chapter, all members of the same con-
22 trolled group of corporations (within the meaning of sec-
23 tion 267(f)) and all persons under common control (within
24 the meaning of section 52(b) but determined by treating

1 an interest of more than 50 percent as a controlling inter-
2 est) shall be treated as 1 person.

3 “(f) REGULATIONS.—The Secretary shall prescribe
4 such regulations as may be necessary or appropriate to
5 carry out the purposes of this chapter.”.

6 (b) CLERICAL AMENDMENT.—The table of chapters
7 for subtitle E of the Internal Revenue Code of 1986 is
8 amended by adding at the end the following new item:

“CHAPTER 56. Temporary Windfall Profits on Crude Oil.”.

9 (c) DEDUCTIBILITY OF WINDFALL PROFIT TAX.—
10 The first sentence of section 164(a) of the Internal Rev-
11 enue Code of 1986 (relating to deduction for taxes) is
12 amended by inserting after paragraph (5) the following
13 new paragraph:

14 “(6) The windfall profit tax imposed by section
15 5896.”.

16 (d) LOW INCOME HOME ENERGY ASSISTANCE TRUST
17 FUND.—

18 (1) IN GENERAL.—Subchapter A of chapter 98
19 of the Internal Revenue Code of 1986 (relating to
20 trust fund code) is amended by adding at the end
21 the following new section:

22 **“SEC. 9511. LOW-INCOME HOME ENERGY ASSISTANCE**
23 **TRUST FUND.**

24 “(a) CREATION OF TRUST FUND.—There is estab-
25 lished in the Treasury of the United States a trust fund

1 to be known as the ‘Low-Income Home Energy Assistance
2 Trust Fund’, consisting of any amount appropriated or
3 credited to the Trust Fund as provided in this section or
4 section 9602(b).

5 “(b) TRANSFERS TO TRUST FUND.—There are here-
6 by appropriated to the Low-Income Home Energy Assist-
7 ance Trust Fund amounts equivalent to the increased rev-
8 enues received in the Treasury as the result of the amend-
9 ment made by section 410(a) of the Tax Relief Act of
10 2005.

11 “(c) EXPENDITURES FROM TRUST FUND.—Amounts
12 in the Low Income Home Energy Assistance Trust Fund
13 not to exceed \$2,920,000,000 shall be available for fiscal
14 year 2006, as provided by appropriation Acts, to carry out
15 the program under the Low-Income Home Energy Assist-
16 ance Act of 1981 through the distribution of funds to all
17 the States in accordance with section 2604 of that Act
18 (42 U.S.C. 8623) (other than subsection (e) of such sec-
19 tion), but only if not less than \$1,880,000,000 has been
20 appropriated for such program for such fiscal year.”.

21 (2) CLERICAL AMENDMENT.—The table of sec-
22 tions for such subchapter is amended by adding at
23 the end the following new item:

“Sec. 9511. Low-Income Home Energy Assistance Trust Fund.”.

24 (e) EFFECTIVE DATES.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), the amendments made by this section
3 shall apply to taxable years beginning in 2005.

4 (2) SUBSECTION (d).—The amendments made
5 by subsection (d) shall take effect on the date of the
6 enactment of this Act.